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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,048	06/04/2002	Gunter Ritter	6236-16-DCL	6731

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EXAMINER

METZMAIER, DANIEL S

ART UNIT PAPER NUMBER

1712

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/088,048

Applicant(s)

RITTER, GUNTER

Examiner

Daniel S. Metzmaier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>122003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 11-24 are pending.

Priority

1. Receipt is acknowledged of papers received in this national stage application from the International Bureau (PCT Rule 17.2(a)), submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 11-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claimed compositions are indefinite regarding the metes and bounds of the compositions regarding the number of components in the compositions and the concentrations for each of said compositions. More specifically, it is unclear how many components are in the claimed compositions since the components of the composition overlap. Regarding the claims wherein specific concentrations are set forth for said components, it is unclear to what extent the concentrations of each of the materials is to be attributed to each of said components for materials that read on more than one of said claimed components.

Specific examples include but are not limited to water soluble nitrogen free organic compounds "b)" would include alkaline earth metal salts "c)" and/or salts of

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component "a)". Components "c)" and "d)" substantially overlap in claim 11. Claim 23 sets forth a specific concentration of an alkaline earth metal salt as component "c)" and a specific amount of magnesium salt as component "d)". It is unclear to what extent the skilled artisan would attribute to each component for components "c)" and "d)".

Claim 12, component "a)" is unclear since it is unclear what is the relationship between the ions and the carboxylic acids. It is unclear if they define the salts of claim 1 or some further species.

Claims 21 and 22 employ an improper alternative grouping.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over 103(a) as being unpatentable Warner-Lambert Company, WO 9734838, as evidenced by patent family member to Ritter, US 6,477,982, in view of Warner-Lambert Company , WO/97/08960, as evidenced by patent family member to Kurzinger, US 6,306,453, and further in view of Tetra Werke DE 29617181 and/or Baensch DE 19704953.

Warner-Lambert Company '838 is a patent family member of Ritter. While the rejection is over the Warner-Lambert Company '838 reference, Ritter is evidence of the disclosure thereof in the English language. Warner-Lambert Company '960 is a patent

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family member of Kurzinger. While the rejection is over the Warner-Lambert Company '960 reference, Kurzinger is evidence of the disclosure thereof in the English language.

Warner-Lambert Company '838 discloses mitigating harmful effects to aquatic life resulting from the use of treated or purified water for human or animal consumption by the addition of additives to make the water approximate the natural water quality and including the addition of magnesium ions and tartaric and formic acid. Warner-Lambert Company '838 further teaches the addition of multiple additives into compositions for addition to an aquatic system.

Warner-Lambert Company '960 reference discloses addition of vitamins as anti-stress agent in aquatic systems.

While the water treatment composition of Warner-Lambert Company '838 may not contain Mg and/or Al-citrate or vitamins, it; would have been obvious to one skilled in the art at the time applicant 's invention was made to incorporate one or both of Mg and Al-citrate and vitamins into the water treatment composition of Warner-Lambert Company '838 to contribute their pH stabilizing and/or buffering effects and vitamins as anti-stress agents in view of the teachings and/or to replace the Ca:Mg ratio taught to be often absent in tap or drinking water.

Tetra Werke (page 11, taken with page 7, lines 5-11) or Baensch (column 3, lines 24-37). The use of known additives for their known functions lacks patentable significance. See *In re Sussman*, 1943 CD 518.

Response to Arguments

6. Applicant's arguments with respect to claims 11-24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Daniel S. Metzmaier
Primary Examiner
Art Unit 1712

DSM